

AbaF

Superannuation options for visual artists

What is superannuation?

Superannuation is a means of saving for retirement, so that there are sufficient funds to enjoy a reasonable standard of living when you retire. Contributions are made to a fund by either an employer for the benefit of an employee or by an individual to their own fund, or both.

What is a superannuation fund?

A superannuation fund is a facility where the money deposited is managed and invested. Trustees run the fund and make decisions about the best way to invest the money. There are four basic types of super funds:

- corporate – open to people working for a particular employer or corporation
- industry – open to people working in a particular industry or under a particular industrial award. Some are open to anyone.
- retail – run by financial institutions and open to the public
- self-managed – opened by an individual and up to three other people.¹

Since 1993, Australia has had a system of compulsory superannuation, known as the *Superannuation Guarantee Charge Act (1992)*.

As visual artists' income can be irregular, it is not uncommon for artists to supplement their income from artwork sales by either fulltime or part-time employment. Some visual artists will have an employer make contributions to a super fund on their behalf.

For artists who are employed

If you are employed on either a full or part-time basis, your employer is required by law to make contributions to your nominated superannuation fund. The law states that an employer must contribute to an employees' fund if that employee is in receipt of normal wages of at least \$450 per month².

If this is the case, your employer is required to contribute "a fixed percentage of normal wages" - usually 9 per cent of your salary. For example, if you work full time as an employee and are paid a gross salary of \$50,000 per annum, then an additional \$4,500 is contributed to a super fund by the employer on your behalf to your nominated super fund.

However, some employees' salaries are inclusive of superannuation, so if your total salary package is \$50,000 then the super component will be \$4,128 and the balance of \$45,872 will be paid as a normal wage in cash.

These payments must be made on a quarterly basis paid by the 28th of the following month i.e., 28 July, 28 October, 28 January and 28 April. Harsh penalties arise if the employer does not make these payments by the due date.

An employee can also sacrifice even more of their wages and make a larger contribution to super as part of a salary package. They may elect for example that 15 per cent of their wage goes into super and the rest be paid as a wage.

¹ "What type of fund can you join", Essential facts about superannuation, Australian Securities and Investment Commission, www.fido.gov.au

² For further information visit -

www.ato.gov.au/individuals/content.asp?doc=/content/00106983.htm&pc=001/002/064/002/002&mnu=42869&mfp=001/002&st=&cy=1

This has the advantage of providing more money in the form of benefits at the time of the employee's retirement and can often have some tax advantages especially for people close to retirement age (55 to 65 years of age).

Earnings and benefits

Once an employee's superannuation account has been set up, the contributions made by the employer to the fund are invested.

For example, in one year the employer has invested \$4,500 into the employee's superannuation account.³ The contribution will be taxed at 15 per cent and the remainder will be invested in shares, property trusts, fixed interest trusts and a host of other investment vehicles. This in turn will, hopefully, result in positive earnings and with compound interest with a fair number of years to retirement, should result in an amount to retire on which should fund a reasonable lifestyle.

Upon retirement, or some time earlier if the employee is between 55 to 60 years of age, he/she can access their superannuation fund. These "retirement benefits" can be paid in either of two forms:

- a pension
- a lump sum.

Pensions

As an incentive to remain in the work force the government introduced "Transition to retirement". This means that an employee aged between 55 and 65 years of age can be paid a pension from their superannuation fund at a greatly reduced tax rate (maximum of 15 per cent).

Once a pension has been established, any additional earnings will be included as income and taxed at normal rates. So an artist who is continuing to sell works whilst still being paid a pension is taxed at his/her normal tax rate.

Lump sums

Once a person has reached the age of 60, they are able to access their superannuation in a lump sum which is completely tax free. This tax free status is not affected if there are any additional earnings from art sales.

Superannuation for contractors or sub-contractors

Many visual artists work freelance, as contractors or sub-contractors. As such they are **not** subject to the superannuation guarantee legislation. So how do they allow for their superannuation?

The Tax Act makes a deduction available for those people who are self-employed.

They can voluntarily decide to contribute to a super fund by making a tax-deductible contribution into a fund of their choice or by also setting up a self-managed super fund.

The government has established limits on how much can be contributed to a superannuation fund. These are:

- under 50 years of age – maximum deductible super contribution is \$50,000
- 50 years and over – maximum deductible super contribution is \$100,000
- 75 years and over – no deduction allowable

These payments can be made either quarterly or any time before 30 June.

³ Let us assume that it is invested in an industry super fund rather than a self managed fund.

Although there is not one industry fund set up specifically for artists, a lot of artists who are also employed as lecturers or teachers have contributed to the industry funds for academics, like Unisuper.

It is advisable to seek advice on the funds best suited for the artist and also to seek advice on whether the funds are able to receive contributions from self-employed artists, as some funds have their own particular rules.

Superannuation for visual artists

With this background in mind we can now turn to what options are available for visual artists.

As visual artists often supplement their income with either full or part-time employment, they are subject to the superannuation guarantee charge, where their employers have to contribute to their superannuation.

However, if they wish to make additional contributions, they are discouraged by the 10 per cent rule. This rule states that if your part-time or full-time employment income is more than 10 per cent of your total income, you are prevented from claiming a tax deduction for any additional self-employed contributions you wish to make.

To illustrate this point, let us consider these examples:

Artist A:

- earns a salary of \$10,000
- employer contributes 9 per cent or \$900 to the employee's super fund
- generates income from other sources such as art sales, bank interest, copyright reproduction fees and capital gains – total \$90,000

The artist's total income is \$100,000. As the salary component of the income is 10 per cent of the total income, no deduction is available for superannuation.

Contrast this with Artist B:

- earns a salary of \$10,000
- employer contributes 9 per cent or \$900 to the employee's super fund
- generates income from other sources such as art sales, bank interest, copyright reproduction fees and capital gains – total \$95,000

The artist's total income is \$105,000. As salary income is 9.5 per cent of total income and under 10 per cent, a deduction is available for superannuation based on the age-based limits as outlined above.

Emerging and younger artists who are able to make superannuation contributions also need to make some decisions before they contribute. As the super will be locked away until they are 55 to 65 years of age, they need to decide whether it is better to fund a retirement which may be a long way off in the future or to use the money in another way – such as to pay off a house or buy a first home.

In cases where artists have received large payments from their art practice, it may be prudent to seek advice from their accountants and financial advisors about the benefits of making superannuation contributions. Superannuation is a tax deduction and as such has the benefit of reducing tax payable.

In cases where artists have reported losses from their arts practice, it is still possible to contribute to superannuation funds. However, consideration needs to be given to cash flow (there may not be sufficient funds) and any tax benefits (likely to be minimal if there is a loss).

Another issue that is specific to artists is the notion that unlike many other members of the workforce, artists actually do not retire.

Many artists upon reaching a retirement age of 55 to 65 years of age will call upon their superannuation accumulated in their funds from earlier teaching or working lives. However, they just don't simply pack away their easels, lock up their studios and sit at home watching TV or playing golf.

If we assume this to be the case for most artists, we need to ask how artists survive through their later years?

For the purposes of this discussion we may need to differentiate between artists who are successful and established and those who have to subsidise their arts practice by taking on additional paid employment.

Successful and established visual artists

If we look at the case of visual artists who have had a successful career spanning many decades, they could simply continue to exhibit and live off their earnings from artwork sales.

In some cases, where the artist has for one reason or another ceased to exhibit, then they may be able to sell their older works from their private collection in order to survive as these works may have increased in value.

If we look at older and successful artists, many have managed to accumulate some income-producing assets such as cash investments, shares, managed funds or rental properties. These can be used to provide a steady income source.

Accountants and financial advisors working with successful and established visual artists advise them to always keep an example of each series of work back from sale. The value of works can increase over the life of an artist that may span between 30 to 50 years. Certainly these works would be more than adequate to meet commitments leading into later years and even beyond to the beneficiaries of the now deceased artist's estate.

Artists who have also been employed

In this case artists may have to be reliant on their super that has been accumulated during their working life. If that is not sufficient then the aged pension may be available.

Some of the industry or banking superannuation funds produce tables showing how much would be available upon reaching retirement age. There are always anecdotal examples that demonstrate how much would need to be contributed each year to realise a decent income for retirement.

Insurance

Another factor to consider is that of insurance. If the artist is not considering contributing to super, an alternative may be to consider obtaining insurance to protect themselves in the case of a traumatic illness or event leading to loss of income through incapacity. Then the insurance company will pay a percentage of the income to the artist, artist's family or nominated beneficiary.

This fact sheet has been developed by Lowensteins Arts Management on behalf of AbaF for the Artist Business program.



Disclaimer

This is not advice. Readers should not act solely on the basis of the material contained in this fact sheet

Items herein are general comments only and don't constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that formal advice be sought before acting in any of these areas covered in this fact sheet.

References and further reading

'Superannuation', *Australian Master Tax Guide 2008 - Tax Year End Edition*, 43rd edition, CCH, Sydney, 2008

Australian Taxation office website – www.ato.gov.au

Superannuation links go to

http://www.ato.gov.au/individuals/pathway.asp?pc=001/003/090&mfp=001/002&mnu=44733#001_03_090

Australian Securities & Investments Commission, *Essential Facts about Superannuation* download at

<http://www.fido.gov.au/fido/fido.nsf/byheadline/Essential+facts+about+superannuation?openDocument#>

Australian Securities & Investments Securities, *Super Decisions*, download at

[http://www.fido.gov.au/asic/pdflib.nsf/LookupByFileName/SuperDecisionsFeb08.pdf/\\$file/SuperDecisionsFeb08.pdf](http://www.fido.gov.au/asic/pdflib.nsf/LookupByFileName/SuperDecisionsFeb08.pdf/$file/SuperDecisionsFeb08.pdf)

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